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STATE FOR WHA DAS MCMULLEN, WHA/AND, AND EEB/IFD/ODF  
STATE PASS TO USAID FOR A-AA/LAC JANET BALLANTYNE AND  
DAA/LAC EDWARD LANDAU

E.O. 12958: N/A

TAGS: [PREL](#) [EAID](#) [EC](#)

SUBJECT: Proposal for Foreign Assistance Agreement to Explore Host  
Country Contracting for Project Implementation

REF: A) QUITO 779, B) QUITO 786, C) LANDAU E-MAIL TO  
SANCHEZ-BUSTAMANTE DATED 09/04/2009 (NOTAL)

[1](#)1. (U) Action Request for USAID/LAC in paragraph 10.

[1](#)2. (SBU) Summary. The Government of Ecuador (GOE) has proposed a "transition clause" in USAID/Ecuador's Assistance Agreement to signal our concurrence with exploring host country contracting (HCC) in the near future. DAA/LAC Landau has suggested, and USAID/Ecuador agrees, that we should investigate the possibility of using HCC for one project as a pilot effort. While Post cannot guarantee that the GOE will agree with this approach, USAID/Ecuador is ready to pursue it. If the GOE agrees, USAID/Ecuador will have to seriously consider HCC as a potential contracting mechanism in the future. This may have implications for USAID programs in other countries of this region. End Summary.

[1](#)3. (U) On August 31, 2009, the GOE sent a proposed "transition clause" that it would like included in the amendment to USAID/Ecuador's Bilateral Assistance Agreement ("Amendment"). The two main points of this clause are: (1) that USAID and the Ecuadorian Agency for International Cooperation (AGECI) should explore alternatives for GOE direct implementation (i.e., HCC) of USG development programs starting in FY 2011; and (2) that the GOE will participate in the technical evaluation committees that select contractors and grantees for new projects.

[1](#)4. (SBU) USAID/Ecuador shared this proposed clause with A-AA/LAC, DAA/LAC, the Regional Legal Adviser, and the Regional Contracting Officer. Guidance received from DAA/LAC (REF c) suggests that USAID and AGECI jointly select a project and related GOE counterpart institution to explore feasibility of pilot host country contracts in accordance with the Foreign Assistance Act of 1961, as amended, Sections 102 and 601, and USAID Automated Directives System Chapter 305.

[1](#)5. (SBU) Following this guidance, USAID/Ecuador will explain to the GOE that it will include a transition clause in the Amendment indicating that host country contracting will be considered as a potential contracting mechanism in the future. USAID/Ecuador will focus on one project only, namely the Integrated Municipal Development Project, which builds small-scale social and productive infrastructure along Ecuador's borders. The Technical Secretariat for Plan Ecuador will be the GOE Contracting Agency for this effort.

¶16. (SBU) If the GOE accepts this approach, USAID will conduct an assessment of the Contracting Agency's procurement capability during the next several months. USAID's assessment team will have the qualifications necessary to assess all aspects of the Contracting Agency's capabilities, including procurement system, accounting system, and internal controls.

¶17. (U) If the assessment results in a recommendation that host country contracting is practical, then the USAID Mission Director will review the recommendations of the assessment team and certify the acceptability of the Contracting Agency's procurement system if the facts support doing so. The AA/LAC will then review the recommendations and certification, and approve or disapprove a single source, negotiated procurement with the host government. If the assessment indicates that use of HCC would be impractical or inappropriate and the USAID Mission Director cannot make a positive determination, then contracting by USAID itself will be used.

¶18. (SBU) If the AA/LAC approves a single source, negotiated procurement with the GOE, then USAID/Ecuador would move to host country contracting for its Integrated Municipal Development Project starting in FY 2011. If the pilot host country contracting mechanism is successful during implementation of the Integrated Municipal Development Project in FY 2011, then USAID/Ecuador may explore other areas of its assistance program that might be conducive to host country contracting.

¶19. (U) Regarding the GOE's desire for more involvement in the selection of contractors and grantees, USAID/Ecuador already invites GOE staff to participate in technical evaluation committees (TEC). USAID/Ecuador ensures that the USG maintains a majority vote in the TEC and is careful to comply with the FY 2009 Appropriations Act, Sec 7034(k), which prohibits approval by the host government of democracy, human rights, and governance activities of non-governmental organizations.

¶10. (SBU) Comment and Action Request: The GOE may accept the pilot approach largely because it wants to have a signed Amendment before the October 20, 2009 Bilateral Dialogue. However, by including this transition clause in the Amendment, USAID/Ecuador is committing to seriously consider host country contracting as a possible implementation mechanism for the future. If USAID/Ecuador does not fulfill this commitment, then negotiations for future assistance agreements will turn increasingly difficult. As adoption of host country contracting may have consequences in other countries in the region where USAID implements development programs, Post urges Washington to confirm this approach before USAID/Ecuador meets with the GOE on September 14, 2009.  
HODGES